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- 1.(U) Summary: The relationship between the United States and Brazil is as productive and broad-based as it has ever been, with an excellent relationship between President Bush and President Luiz Inacio Lula da Silva and new cooperation mechanisms on private sector priorities (CEO Forum), commercial policy matters (Commercial Dialogue), economic policy matters (Economic Partnership Dialogue), and biofuels (March 7 2007 MOU), as well as a June civil aviation agreement that will permit expanded passenger flights and cargo services. Brazil and the United States share the goals of fostering hemispheric stability, promoting democracy, developing a consensus on next steps regarding climate change, and achieving a mutually satisfactory conclusion to the Doha round of WTO negotiations in the near-term. Energy is increasingly becoming a key element in the bilateral relationship as Brazil takes center stage on biofuels commercialization and oil exploration. Regarding CEO Forum priorities, USG and Brazil have had Bilateral Tax Treaty discussions and continued discussions on bilateral investment issues. USG has supported workforce development initiatives and other exchanges, helped organize venture capital events, made significant progress on reducing visa wait times, and advanced infrastructure cooperation with Brazil; we are now working on a full time USTDA presence in Brazil.
- $\P2$. (U) Your visit is an important part of an overall strategic plan for developing and highlighting the bilateral energy relationship. Building on the success of our bilateral MOU on biofuels, we believe it is critical that we expand and deepen U.S.-Brazil energy relations as Brazil looks to become a global energy player. visit is the third in a series of three high-profile visits to build these relationships and to call public attention to the joint efforts. DOE Acting Deputy Secretary Kupfer's August 4-7 visit laid the broad groundwork for expanded energy cooperation with Brazil. U/S Jeffery's October 2 (Rio) and 3 (Brasilia) visit focused on facilitating American involvement in the exploration and exploitation of Brazil's newly discovered deep water oil resources, next steps in our successful cooperation on biofuels, and how to continue to deepen our cooperation on the broad spectrum of economic engagement with Brazil. Your visit will include the CEO Forum in Sao Paulo and a day in Rio to explore opportunities to expand commercial interests, especially in the energy area. We expect the Deputy Minister of Mines and Energy to travel to the US for further meetings in October, laying the groundwork for the Mines and Energy Minister to visit the US in the spring. We believe these visits are critical in demonstrating to the Brazilians that we are strong economic partners in multiple areas, as they chart their course in developing their newly discovered oil resources and possibly play a larger role in ensuring global energy security.
- 13. (U) Your trip also provides a special opportunity to shape the future of the U.S.-Brazil broader economic relationship. Our bilateral relationship has been extremely strong in recent years and Brazilians are acutely aware of the upcoming change of

administrations and want to know what it means for them. We expect that your meetings will include questions about the transition. Particularly in the wake of the stalled WTO Ministerial, affirming our commitment to the US-Brazil economic relationship and exploring the path forward on trade an other economic issues will be an important focu for your trip. End Summary.

Financial Crisis

14. (U) Though your trip is primarily focused on indentified priorities of the CEO Forum, the fact that timing coincides with the escalating financial crisis means this will be an inescapable topic in many of your meetings. In response to the financial crisis, Brazil's Central Bank has partially reversed its hawkish anti-inflationary policies by adding 13.2 billion reais to the financial system in hopes of freeing up credit and has indicated that future interest rate hikes are unlikely given the diminishing threat of inflation due to a global slowdown and falling commodity prices (that said, analysts widely expect GOB to raise interest rates again at the end of October above the current 13.75% SELIC rate). Brazil's Finance Minister continues to assert that Brazil is well-positioned to weather the crisis while he and Central Bank contacts confirm moves to try to mitigate the effects of the crisis. President Lula continues to criticize the United States for a lack of financial regulation, claiming that a global regulatory body is needed to address the sitution. Lula acknowledged publicly for the first time very recently, that the Brazilian economy may be adversely impacted by the crisis, drawing widespread criticism for not having a real grasp on the potential of the crisis. Although Brazilian markets have taken a beating in recent days and the real

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has seen an erosion of its strength from earlier this year, large Brazilian companies are confident that they will weather the storm, though there are worries about the effect of a tightened credit market for smaller enterprises.

Shared Interests: Biofuels Cooperation

 $\underline{\P}5$. (SBU)Brazil and the United States signed a Memorandum of Understanding in March of 2007 to cooperate on the development and deployment of biofuels through a three-pronged approach: bilateral, third countries, and global. The most recent meeting of the bilateral Steering Committee under the MOU was held October 3, with $\ensuremath{\text{U/S}}$ Jeffery leading the meeting for the U.S. side. We continue to make steady progress under all three pillars and post believes that Brazil is newly invigorated to move more rapidly toward achieving our joint priorities, in part to due to new leadership at the Foreign Ministry and in part due to the desire to show progress at the November 17 - 21 biofuels conference being hosted by Brazil. 16. (SBU) Under each of the pillars of the MOU we are moving forward. Bilaterally, we are working to advance the research and development of next-generation biofuels technology. We have had two exchange visits between our scientists who have submitted a cooperative work plan and developed an MOU between our National Renewable Energy Laboratory (NREL) and Petrobras' research laboratory-CENPES which will be announced at the November conference. Under the third country pillar, we are working jointly to bring the benefits of biofuels to select third countries through feasibility studies and technical assistance aimed at stimulating private sector investment in biofuels. We have thus far done studies and identified funding for 21 projects in the Dominican Republic, St. Kitts and Nevis, Haiti, and El Salvador. At last week's meeting of the Biofuels Steering Committee, we confirmed our intention to expand the program to five more countries (most likely Gutamala, Hondorus, Jamaica, Guinea Bisseau, and Sengal, with announcement pending notification of those countries). Globally, to advance the commoditization of biofuels, the U.S., Brazil, and European Commission (EC), working through the International Biofuels Forum (IBF), fast-tracked a process with their respective standards organizations improving the compatibility of bioethanol and biodiesel standards and codes.

 \P 7. (SBU) In addition to the three pillars of the MOU, we have

reached out to the private sector via the Private Sector Advisory Group to elicit their input, interests, and concerns. The Advisory Group, which is made up of private sector experts from both countries, was informed of activities under the MOU and has begun the process of providing input and advice to the Steering Group. The Advisory Group recently prepared a well-received proposal to help fast track critical certifications in Brazil to facilitate the entry of U.S. firms into the market. The proposal is currently under consideration by the Brazilian government. The Private Sector Advisory Group is also making plans for a meeting on the margins of Brazil's November 17-21 biofuels conference.

- 18. (SBU) On sustainability of ethanol, the Brazilians have agreed to work with us to define indicators and criteria for global use via the Global Biofuels Energy Partnership Together we are leading the process to ensure sustainability is discussed on a scientific basis and to avoid having the issue used as a trade barrier. Hopefully this type of cooperation will help to ensure that Brazil will not repeat the type of unfortunate remarks President Lula made at the FAO meeting in Rome several months ago differentiating corn and sugar ethanol. We are assured by MRE that this is not their plan. Continuing to engage with the GOB is likely the best assurance that it will not veer down that path.
- 19. (SBU) One area where Brazil has been seeking our engagement is the upcoming biofuels conference November 17 -21 in Sao Paulo. GOB participants may press you on POTUS attendance and also look for assurances of high level participation regardless. We are told 24 countries will be represented at the Ministerial level, while the Philippines and Australia will be represented at the Head of State level. The GOB is using the conference as an opportunity to establish leadership in the field but is open to our ideas on topics and outcomes. We view the conference, in part, as an opportunity to leverage their interest in producing conference deliverables to carry some of our goals forward.
- 110. (U) The ethanol industry in Brazil continues to grow. Petrobras just announced the formation of a new multibillion dollar biofuels subsidiary to manage Petrobras' entry into the production side of the ethanol market. In the coming year alone, Brazil's production of sugarcane-based ethanol is projected to increase 14.8 percent. On the demand side, Brazil's use of modest tax breaks have led new car purchasers to opt overwhelmingly for "flex-fuel" cars that can

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run on either gasoline, ethanol, or any combination of the two. This year ethanol surpassed gasoline as the major automotive fuel. Domestic demand consumes 85 percent of all production. The other 15 percent is exported, primarily to the United States. The ethanol private sector is increasingly partnering with international companies in building production facilities, as well as addressing the internal logistics problems that undermine the profitability of ethanol exports. These include infrastructure bottlenecks in Brazil as well as various international tariff regimes.

Beyond Biofuels: Other Energy Cooperation Opportunities

¶11. (SBU) During his visit here August 4-7, Energy Acting Deputy Secretary Kupfer engaged in some very productive conversations with GOB officials seeking to identify potential areas of cooperation. He heard from the various departments of the Ministry of Mines and Energy (MME) a laundry list of things we might do together, including cooperating on reinvigorating our respective civil nuclear programs, alternative energy sources such as solar and wind, clean coal, interconnectivity, energy efficiency, and shale exploration, as well as oil exploration. Under the 2003 MOU, we have the mechanism for such cooperation but it is important that now DOE and MME establish working groups to move the process forward. Post and DOE are working to set up a DVC to further pursue this collaboration. Brazilian Mines and Energy Minister Lobao has expressed interest in travelling to the United States this spring to

continue to deepen this cooperation.

An Emerging Player in the Oil Sector

- 112. (SBU) The discovery of potentially massive offshore reserves of oil and gas estimated to contain between 30-80 billion barrels of oil equivalent could put Brazil within the top ten oil countries by reserves. Though the possibilities have generated a great deal of excitement, industry observers caution that the technological challenges involved with ultra-deepwater drilling are extensive, including a worldwide shortage of equipment such as drilling rigs, meaning that developments will probably be slow in coming. Petrobras appears to be overextended internationally and is hamstrung by limited equipment resources. However, it has launched a multi-billion dollar procurement initiative and is reexamining its international priorities so that it can focus on domestic opportunities. U.S. oil companies are poised and ready in many cases to take on more exploration opportunities - a message that we do not believe industry has adequately conveyed to the GOB. Brazil has expressed interest in having U.S. companies involved in the exploitation of Brazil's oil reserves as well as in receiving high-level U.S. visitors with the intention of developing closer bilateral ties.
- 113. (SBU) President Lula and Brazil's National Energy Policy Council are expected to announce a regulatory reform plan later this year, likely proposing a small, new non-operational state-owned oil company to manage the new pre-salt reserves. Such a company would maintain the ownership rights for oil reserves and partner with private oil companies through production sharing agreements to explore and produce oil in the pre-salt area, possibly following the Norwegian model. Other possible models include increasing the government's share in Petrobras, or increasing the government's take through higher concessions. In response to criticisms that the process to rewrite the current Petroleum law would be too time consuming, Energy Minister Lobao has told us that the Executive has fast track legislative measures available to it that should enable the legislation to be enacted early in 2009, though Ministry contacts have told us that looks increasingly unlikely due to concerns over how to handle distributions to states and municipalities. The national oil regulatory agency, industry, and analysts believe such a change of legislation would be much more complicated, possibly lasting years, thus their interest in maintaining the current concession contract model with increased royalties.
- 114. (U) Meanwhile, further leasing of all offshore exploration blocks has been suspended pending the National Energy Policy Council's deliberations; an auction of on-shore blocks is planned for December 2008. According to Minister Lobao, there will be no new development of offshore reserves for the near future as the GOB defines its approach to the presalt finds, focusing instead on on-shore and shallow water exploration. This is a very sensitive sovereignty issue for the government, featuring minefields of bureaucratic infighting. We have tended to approach the topic by offering the observations of our industry and willingness to share our experiences in this field, if so desired.

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---Trade

115. (SBU) The Brazilians have made a valiant effort to resurrect the Doha negotiations and at least publicly have not given up hope that the round can still be salvaged. This is an optimal time to discuss the future of trade, regardless of the results of Doha. Brazil has traditionally cited the need to maintain coherence with its Mercosul partners and its role as a leader of the G-20 as constraining its flexibility in trade negotiations. Mercosul is an economic mechanism created for political reasons. However, during what looks now to have likely been the end-game of the Doha Round, Brazil calculated that the benefits to Brazil of agreeing to compromise in

an attempt to achieve a carefully balanced agreement of industrial and agricultural liberalization outweighed the political cost of moving beyond Argentina's preferred negotiating position. This decision drew the praise of industry as well as the think tank/academic community, which has generally assessed that Brazil's move will not have a long-term negative effect on Brazil's position within the G-20 or Mercosul. It has however drawn criticism from India which in recent days blamed Brazil's position in Doha on efforts to try to curry favor with the U.S. The Lula government has continued to try to bring about a resolution to the round, while still cultivating its bonds with longtime allies such as Argentina through trade missions and development of a currency exchange mechanism for bilateral trade.

116. (SBU) Although Brazil has made clear it will negotiate FTAs or other trade agreements only together with its Mercosul partners, its leadership in Mercosul is key to concluding any agreement (REFTELS F and G). Brazil's continuing emergence as a country willing to engage on trade and other economic issues in its national interest may indicate further potential for expanded interest in economic cooperation with the United States. GOB has made clear its continued interest in concluding a Doha agreement in the near term.

Bilateral Tax Treaty

117. (SBU) Treasury's Michael Mundanca and Tom Ralph concluded a round of talks September 30-October 2 with the Brazilian Receita Federal toward an eventual Bilateral Tax Treaty. Participants made good progress in gaining mutual understanding of each others' systems regarding limitation of benefits, capital gains, permanent establishment, and withholding taxes and agreed compromises can be found on these issues. Receita was able to accept Treasury's proposed language on information exchange, and briefed that the TIEA is unlikely to move forward before the end of the year. Regarding transfer pricing, all US treaties incorporate the arm's length standard and all US treaties provide for competent authority resolution of transfer pricing (and other) disputes. Due to Brazilian legislative constraints unlikely to change in the foreseeable future, a treaty with Brazil would not provide for either. Similarly, it would not be possible for Receita to include an arbitration clause in a treaty. We can explore with the CEO Forum whether there is industry interest in concluding a Bilateral Tax Treaty that would not include arms length transfer pricing or dispute resolution.

118. (SBU) Regarding the TIEA, within the business community, congress, and even among ministries' officials, ambivalence exists on the issue. Distrust in Receita Federal's (the Brazilian IRS) ability to safeguard information and suspicions among some that tax authorities mis-collect and mis-use information (fueled by long memories here of scandals past) may impact willingness to press for further information exchange, depending on the types of information requested. This ambivalence regarding information exchange is currently playing out in the Congressional ratification process for the TIEA. This more limited "down payment" on the BTT which provides for information exchange subject to domestic law constraints, has drawn opposition from congressional representatives, legal experts and some in the business community as allegedly violating the Brazilian constitution. Prospects for passage are uncertain.

Bilateral Investment Treaty

119. (SBU) It remains unlikely that Brazil would be willing to commit to binding arbitration at the federal, state or municipal level for investor-state disputes. Casa Civil (Dilma Rousseff) to date believes contract provisions can govern dispute resolution and that an international arbitration mechanism is unnecessary. Discussions with Casa Civil, MRE, Finance, MDIC (Commerce) and CAMEX (roughly TPRG) consistently indicate that, for strategic reasons to increase

GoB and Congressional confidence in negotiating investment agreements, Brazil prefers to start discussions first with Argentina, where Brazilian companies have major investments and have experienced significant investment problems, according to our interlocutors.

While ministries confirm that the CAMEX-agreed framework that Brazil will use to start its conversation with Argentina does not currently contain any reference to investor-state dispute settlement, some interlocutors are hopeful this element could be introduced over time into this dialogue. We view willingness to engage with Argentina as a positive sign that GoB is beginning to tackle investment agreement conversations; however, we believe both Brazilian and US business as well as USG will need to continue to press in order to convince GoB to engage substantively with us on the provisions of a bilateral investment treaty in the near term. We plan a side meeting to discuss investments on the margins of the October 30 State/MRE led Economic Partnership Dialogue.

Infrastructure Cooperation

120. (U) The USTDA Regional Director for Latin America and the Caribbean had an excellent series of meetings in Brasilia, Sao Paulo and Rio with Casa Civil, BNDES (Brazil's National Development Bank), state governments, and other interlocutors this spring. USTDA developed a preliminary list of possible projects with potential for American investment and/or participation (ideas include areas like port dredging, oil platform water discharge, urban waste management, transportation projects). USTDA led seven definitional missions to Brazil (aviation, oil and gas, surface transportation - rail and intermodal, environment - wastewater and solid waste treatment, and information technology). The head of USTDA visited Brazil September 15-17 to further pursue these projects and signed three grant agreements. USTDA Director Walthers has expressed his readiness to add a permanent USTDA person in Brazil in FY09. In addition, the Treasury DAS for Latin America recently visited Brazil to continue dialogue with Casa Civil, Planning Ministry and BNDES officials on how best to structure infrastructure cooperation.

Civil Aviation

 $\P21.$ (U) We recently succeeded in significantly expanding civil aviation opportunities. Negotiations in Washington in June (following the first round of civair negotiations in ten years in December 2007) yielded a June 26 agreement on a package of significant liberalization measures. The agreement, phased in over four years, will permit weekly flights to be expanded from 105 to 154 for each country. The agreement will, for the first time, permit carriers to provide some services on a codeshare basis with third-country partner airlines. Under the agreement, U.S. carriers are permitted to serve five new cities in Brazil. The June agreement will expand weekly cargo flights from 24 to 35 immediately and to 42 in 2010. Cargo charter flights will increase from 700 to 1000, and to 1250 by 2010. Airlines are already moving to take advantage of expanded access. On August 8, Delta and American's applications to begin using 21 new frequencies to north/northeast destinations were approved. This agreement represents a significant new area of cooperation between the US and the recently re-organized Brazilian civil aviation authority and lays the foundation for increased tourism and investment links between our countries, including to the previously underserved north and northeast of Brazil. The agreement provides for further negotiations by 2010, and we understand CEOs may press for further liberalization negotiations in the near-term.

Development and Corporate Social Responsibility (CSR)

122. (U) Despite progress toward consolidating democracy and stabilizing the economy, Brazil remains unequal in income distribution, with over 50 percent of the nation's wealth concentrated in 10 percent of the population. Brazil is home to 50 percent of the people who live in extreme poverty in Latin America. In this context, microenterprise development and increased corporate

social responsibility can serve as important mechanisms to improve Brazil's economic development, social stability and equity. In 2006, U.S. companies in Brazil employed 321,477 people and invested a total of 205 million reais (approximately \$128 million) in corporate social responsibility projects in Brazil. The companies supported more than 800 projects and engaged 15,513 individuals in volunteer programs. Ambassador Sobel was instrumental in founding the Mais Unidos (More United) a partnership of the U.S. Embassy, USAID, and a group of 105 U.S. companies operating in Brazil, joining forces in promoting social partnerships to develop

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innovative solutions to reach underserved populations, to fight poverty and inequality, and to promote sustainable social and economic development. USAID Administrator Fore made a successful trip in August through which she greatly expanded the visibility of public-private partnerships and U.S. efforts in Brazil. Mais Unidos has now established a private sector Board that includes several CEO Forum members (Cummins, Intel and Citibank) as well as Microsoft, Dow and Bedmon Dickinson.

123. (U) Microenterprises account for 99 percent of all formal business, employ up to 60 percent of the formal workforce, and account for 20 percent of the country's GDP. Brazil's extremely complex business regulatory environment, however, has contributed to a high rate of business failure, inhibiting the development and sustainability of microenterprises. USAID-funded economic development assistance is focused primarily on strengthening microenterprise development and productivity, while challenging large corporations operating in Brazil to assume even greater corporate social responsibility.

BASIC ECONOMIC BACKGROUND

124. (U) Brazil is the tenth largest economy in the world, and received investment grade from Standard and Poor's and Fitch this year. While Brazil is major producer and exporter, exports make up only 14 percent of this domestic services-led economy. Agriculture makes up 36 percent of exports and 13 percent of GDP. Brazil also distinguishes itself as a major exporter of civilian aircraft, steel, and petrochemicals. The United States is Brazil's top trading partner and China has just moved in position as number two. Brazil is both an overseas investor and an FDI destination point, as well as being both an assistance donor and recipient. Having recently become technically self-sufficient in oil production (they export some but also have to import due to the type of crude Brazil currently produces), Brazil boasts a diverse energy matrix and they look to become a net oil exporter in coming years. For all the economic progress of recent years (stemming from the stabilizing Plan Real implemented in 1994), Brazil remains a relatively closed economy encumbered by many structural obstacles, and one in which some 40 percent still live in poverty, though the expanding middle class has been the largest economic story here in the past year.

125. (U) Annual GDP growth was 5.4 percent for 2007, and inflation approximately 4 percent. GOB's inflation target for 2008 is 4.5 percent (current estimated inflation is 6.54 percent—the high end of the target band) and the government has taken a hawkish approach to managing interest rates. The SELIC benchrate now stands at 13.75 percent and market forecasts expect the SELIC could go as high as 15 percent by early 2009. The currency, the real, has appreciated strongly, though the financial crisis has caused it to lose ground in just the past two months. The global slowdown has had an impact on Brazil's trade surplus — for the first seven months of 2008, Brazil posted a surplus of 14.65 billion USD, down from 23.92 billion the same period in 2007. While the export sector has been dampened, the strong currency has permitted Brazilian companies to ramp up investment in capital equipment. Though Brazil has maintained an optimistic attitude about its prospects throughout the economic downturn and now crisis, President Lula has recently begun to strongly criticize the U.S. for a lack of financial regulation, which he blames for the problems.

- 126. (U) Foreign direct investment in Brazil is increasing, with a net flow of USD 34.6 billion in 2007 (nearly double the USD 18.8 billion in 2006). Of total gross inflow of USD 34.3 billion in 2007, USD 6.1 billion came from the United States, the second most from any one source country, number one being the Netherlands. Brazilian investment in the United States has almost tripled between 2001 (USD 1.4 billion) and 2006 (USD 3.9 billion). The three key pillars of Lula's Growth Acceleration Program (PAC) to enhance infrastructure investment in Brazil are energy, transportation, and sanitation/housing. GOB recently announced that federal government investment spending from January 2008-May 2008 was 7.43 billion reais (approximately 14 billion USD), representing a 24 percent increase from the same period one year ago. However, Brazil's investment to GDP ratio (17.6 percent in 2007) remains well below investment ratios in Russia (21 percent), India (34.6 percent) and China (40.4 percent).
- 127. (SBU) There are other major structural challenges to long-term growth. Real interest rates remain the highest in the world at 8.7 percent, but much lower than 13.5 in 2005. To attempt to improve the structural climate, the Central Bank has recently approved new Foreign Exchange regulations to reduce costs and paperwork for cross-border transactions, which will eliminate 30 day reporting requirements as well as reduce taxes on up to 500 million USD.

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However, growth-limiting distortions in the economy, including a net debt to GDP ratio of 42.7 percent (2007), a burdensome tax and fiscal structure, and onerous labor and business regulations continue to constrain growth. The informal sector constitutes an estimated 40 percent of the economy, in part due to the tax burden (36 percent of GDP in 2007 and currently estimated at 37.3 percent), one of the highest among large developing economies. Brazil is ranked 125 in the Doing Business report (with 152 days to start a business) and ranks 92 out of 125 countries for trade protectionism according to the World Bank. Lula's social programs, combined with formal sector job growth and real increases in the minimum wage, have reduced income inequalities each year since 2004 (2007/08 GINI is 56.7, compared to approximately 40 in the United States).

Political Atmospherics

- 128. (SBU) Brazil's democratic institutions are generally strong and stable. President Luiz Inacio Lula da Silva remains a popular president as a result of his orthodox economic policies and expanded social programs. In the Congress, ongoing public scandals involving the leadership of the Senate and various members of congress have led to low ratings for the institution among the Brazilian public. Increasingly, the court system has taken steps to curb impunity among public officials. These steps have been well received by a public accustomed to abuses by authorities.
- 129. (SBU) The United States and Brazil share the basic goals of fostering hemispheric stability, promoting democracy, preventing terrorist and drug transit activity, supporting international non-proliferation regimes, and have been working to try to achieve a conclusion to the Doha round of WTO negotiations. The attainment of a permanent seat on the UN Security Council has been a central goal of Brazil's foreign policy under President Lula da Silva's government. Regionally, Lula has maintained Brazil's historic focus on stability, seeing dialogue and good relations with all parties as the best way to achieve this goal. As a result, Brazil maintains an active dialogue with Venezuela and Cuba, has worked hard to restore relations with Bolivia, and has stood firmly on the principle of respect for sovereignty in responding to the dispute between Colombia and Ecuador, preferring to work through the Organization of American States.

SOBEL